

EXHIBIT 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

STATE OF MISSISSIPPI;
STATE OF ALABAMA;
STATE OF ARKANSAS; COMMONWEALTH OF
ARKANSAS; STATE OF
LOUISIANA; STATE OF MISSOURI;
and STATE OF MONTANA,

Plaintiffs,

No. 1:22-cv-113-HSO-RPM

v.

XAVIER BECERRA, in his official
capacity as Secretary of Health and
Human Services; THE UNITED
STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES;
CHIQUITA BROOKS-LASURE, in her
official capacity as Administrator of the
Centers for Medicare and Medicaid
Services; THE CENTERS FOR
MEDICARE AND MEDICAID
SERVICES; THE UNITED STATES
OF AMERICA,

Defendants.

DECLARATION OF FRANK SHAW

I, Frank Shaw, declare as follows:

1. The facts set forth in this declaration are based on my personal knowledge, and if called as a witness, I could and would competently testify to the following matters under oath.
2. I am the immediate past President of the Arkansas State Conference of the National Association for the Advancement of Colored People (“Arkansas NAACP”), a proposed intervenor in the above-captioned matter. The Arkansas NAACP is a nonpartisan, nonprofit organization that is an affiliate of the NAACP.

3. I am authorized to provide this declaration on behalf of the Arkansas NAACP. I held the position of president from 2018 to 2021, and I currently serve on the Executive Committee in the Arkansas NAACP. In performing my past duties as president, I interacted with Arkansas NAACP members, and regularly worked with the NAACP units (branches, chapters, and committees) that are responsible for carrying out the mission of the organization. In performing my current duties on the Executive Committee, I also regularly work with NAACP units and members. Before my presidency, I was a NAACP member, and have been a NAACP member for many decades.
4. The NAACP is the nation's oldest and largest civil rights organization, which was founded in 1909. We share the mission of the NAACP, which is to "achieve equity, political rights, and social inclusion by advancing policies and practices that expand human and civil rights, eliminate discrimination, and accelerate the well-being, education, and economic security of Black people and all persons of color."¹
5. We currently have thousands of members throughout the state, with around 27 active units across Arkansas. The Arkansas NAACP's membership consists largely of African Americans, and it aims to support all people of color and members of underrepresented and vulnerable populations, regardless of membership in Arkansas NAACP.
6. Currently, we estimate that over 60% of our members are eligible for Medicare and that most of them are Medicare beneficiaries.
7. We focus on implementing the mission of NAACP at the state and local level in Arkansas. We work on a variety of issues that advance our mission and are of concern to our members,

¹ NAACP, *Our Mission*, <https://naacp.org/about/mission-vision> (last visited May 10, 2023).

such as voting, education, and health. The Arkansas NAACP has a Health Committee, which is led by our health chair.

8. The Arkansas NAACP and its members will be negatively affected if Plaintiffs succeed in striking down the Center for Medicare & Medicaid Services (“CMS”) 2021 final rule, the rule that adds an improvement activity entitled “create and implement an anti-racism plan” in the health equity subcategory (“anti-racism rule”). The rule complements the Arkansas NAACP’s work to educate our members about common health conditions in the Black community and encourage them to engage in routine preventative care. If CMS’s anti-racism rule is rescinded, we are concerned that it will exacerbate existing distrust of medical providers among many Black Arkansans. The rule also aims to improve health care for older Arkansans, including older Black Arkansans and older members of Arkansas NAACP. The rule works to reduce racial health disparities, and the rule’s rescission would make it less likely that Medicare providers will adopt measures that aim to reduce racial health disparities.
9. First, the Arkansas NAACP has an interest in preserving the anti-racism rule because the rule furthers one of our primary missions, which is to eliminate racial health disparities. Our work on improving access to healthcare and eliminating racial health disparities is a result of the fact that so many of our members and the citizens of Arkansas who are people of color have had to confront health inequities, including lack of access to health care, racial stereotyping, and encounters with racism.
10. Accordingly, the Arkansas NAACP organizes a wide range of health-focused programming. For example, in September 2022, the Arkansas NAACP hosted Blue Cross Blue Shield representatives at our annual convention. Blue Cross Blue Shield gave a

presentation about health conditions that disproportionately affect the Black community. In 2022, and in years past, many of our physician-members gave presentations to the state conference membership. These presentations educate members of the Arkansas NAACP about health issues affecting the community and about where to access health care in Arkansas.

11. Several local Arkansas NAACP branches also host annual health fairs, coordinate COVID-19 vaccination clinics, and partner with clinics to provide blood glucose screenings. Members of the Lee County branch, for example, volunteer with the Lee County Cooperative Clinic. This clinic has to meet a significant portion of the County's health care needs because there are no hospitals in the area.
12. Arkansas is a rural state, and in many of our counties, there are no hospitals or clinics, or hospitals have closed, causing our members to have to travel very far to see a healthcare provider. When there is a hospital closure or a sale of a hospital that used to be run by the county in an area, the Arkansas NAACP branch in the area typically holds a community event open to all where there is discussion from providers and community members about how these hospital closures or sales will affect the community. Through these events and through our membership, we have learned that hospital closures and lack of access to quality healthcare is a substantial barrier for low-income Arkansans to live healthier lives. Additionally, the Arkansas Minority Health Commission identified that the quality of healthcare in many rural areas is poor, and that many patients in rural parts of the state have a lack of trust in the healthcare system.

13. Although our membership and other Arkansans of color face many barriers to equitable healthcare, this anti-racism rule represents an important step to address and work on eliminating health disparities.
14. Second, the Arkansas NAACP has an interest in defending CMS's anti-racism rule because it creates an incentive for Medicare providers to become culturally competent and deliver medical care that is sensitive to the needs of Black individuals and other individuals of color. Many culturally and racially diverse Arkansans fall below the poverty line and live in rural areas where accessing routine medical care is difficult. In our experience, Arkansas NAACP members are more likely to overcome those barriers and access medical care when they trust their providers.
15. The Arkansas NAACP has designed programming throughout the years to rebuild trust between Black Arkansans and the medical community. For example, in 2020, the Arkansas NAACP partnered with the state's Minority Health Commission to conduct better education and outreach efforts regarding the COVID-19 pandemic. Black Arkansans sometimes distrust the medical community because of the long history of intentional and inadvertent racial discrimination—discrimination that continues today. For example, the Arkansas NAACP has a legal redress line, which allows Black Arkansans and other Arkansans to report incidents of discrimination within the state, and we have received complaints from Arkansans reporting encounters with medical racism over the years.
16. Some members have told me that they feel like they experience barriers in communicating their medical needs to their medical providers because of cultural differences. Others have expressed concern that their doctors treat the experiences of their white patients as the “default,” instead of being attentive to the varying experiences of patients of all races and

ethnicities. However, overall, Arkansas NAACP has found that medical providers deliver better care to our members when they are attentive to cultural differences and our members' specific needs.

17. The anti-racism rule is designed to combat the implicit biases among the medical community that interfere with our members' ability to access quality health care from responsive medical providers. Recission of the anti-racism rule will likely impede the Arkansas NAACP's ability to realize progress in our mission of eliminating health disparities and rebuilding trust between Black Arkansans and the medical community.

I solemnly swear and affirm under the penalties of perjury that the foregoing is true and correct based on my personal knowledge.

/s/ Frank Shaw
Declarant's Signature

5/11/2023
Date

Frank Shaw
Declarant's Printed Name